



**CHRIS CHRISTIE**  
Governor

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## *New Jersey Office of the Attorney General*

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### **BOARD OF RESPIRATORY CARE PUBLIC SESSION MINUTES**

#### **SOMERSET CONFERENCE ROOM 6<sup>th</sup> Floor**

**March 11, 2014**

Final

The March meeting of the New Jersey State Board of Respiratory Care was convened in accordance with its notice to the Lieutenant Governor, the Bergen Record, the Trenton Times, the Courier Post and the Star-Ledger and was conducted in accordance with the provisions of the Open Public Meetings Act.

Chairman Capek convened the meeting at 10:00 a.m. A roll call was taken and the following attendance was recorded for these minutes.

**PRESENT:** Kenneth Capek  
Christopher Lange  
James Brophy  
Janet Castronovo

**EXCUSED:** Michael G. Brown

**ABSENT:** Robert Malovany, MD

**Also in attendance:** Virginia Class-Matthews, Deputy Attorney General, Dorcas K. O'Neal, Executive Director and Bernadette Augustus, staff.

**Public attendance:** Michael Jensen, President, US HomeMed., LLC.

1. The Board reviewed the Public Session Minutes of February 4, 2014. **On a motion by James Brophy, seconded by Janet Castronovo, the Board unanimously approved the Public Session Minutes as submitted.**

#### **II. OLD BUSINESS/REAGENDIZED**

- a The Board discussed CE Broker with Deputy Director Maryann Sheehan and Francine Widrich. Ms. Widrich will confer with the Department of Treasury to ascertain the requirements for developing a Request for Proposal (RFP) for the Board. Reagendized.

### III. NEW BUSINESS

- a. **Michael Jensen, President of US Home Med, LLC**, submitted a letter to the Board and attended the Board meeting, in connection with his request to obtain a letter from the Board that states his company does not need a Respiratory Care License. His letter stated that Medicare is stating that he needs a license.

In Mr. Jensen's letter, dated February 6, 2014, he explained that his company distributes nebulizers and apparatus at doctor's offices for them to supply to patients in need of this machine. However, at the meeting he stated that his company distributes to doctors offices as well as to patients and that his company bills for them.

**The Board unanimously determined that as to Mr. Jensen's stated representation of his business practices, the Board of Respiratory Care has no jurisdiction over Regulated Business or any aspect covered by the Federal Trade Commission or any other licensing entity.**

As to the requirements of the Board of Respiratory Care which affect Durable Medical Equipment (DME) Companies, Chairman Capek recommended that Mr. Jensen log on to: [www.njconsumeraffairs.gov](http://www.njconsumeraffairs.gov) and refer to Subchapter 3.3 of the regulations, **DELEGATION BY A RESPIRATORY CARE PRACTITIONER TO UNLICENSED PERSONS**. At the meeting, for further clarification, the Chairman of the Board read the following citation:

*N.J.A.C. 13:44F-3.3 (f), which states in part that " in an outpatient setting, ensure that a follow-up visit from a licensee or a person exempt from respiratory care licensure pursuant to N.J.S.A. 45:14E-9(c ) takes place within 24 hours of the delivery of the equipment to the patient for the purpose of conducting an in-person assessment of the equipment. The follow-up visit must be documented in writing.*

*1. The documentation of the follow-up visit shall be maintained for all patients during the course of respiratory care and for a period of one year following the termination of respiratory care services."*

**Finally, based on Mr. Jensen's comments addressed to members of the Board recommended that, relative to his company's billing practices, the Board advised Mr. Jensen schedule arbitration with Medicare regarding its issues or concerns.**

- b. The Board reviewed a fax from **Lydell Douglass**, inquiring as to whether a RCP license includes the ability to perform Pulmonary Function Testing via Body Box. **The Board determined that a licensed Respiratory Care Practitioner in the State of New Jersey can perform Pulmonary Function Testing, via Body Box with proper training.**

- c. The Board reviewed a letter from **Anna Shatkin RN, BSN, Practice Manager**, inquiring as to the scope of practice of Pulmonary Function Testing in respect to the exceptions or RN's and LPN'S. The Board determined that this matter be referred to the Board of Nursing along with a copy of the June 2002, Notice Of The Board Of Respiratory Care Regarding Pulmonary Function Testing.
- d. The Board reviewed a fax from **Chris Szabo, CRT**, inquiring as to whether it is legal to assist nursing with holding bed confined non-vented and vented patients on their side while doing cleaning (diaper changes and wound care) is within the scope of practice of Respiratory Care.

**The Board determined that it has no jurisdiction over hospital protocol, as it is more an employer's prerogative.**

#### **IV. INFORMATIONAL/FYI**

- a. The Board reviewed a letter from Robert B. Sigler, RRT, FACHE, Director of Respiratory Care, Robert Wood Johnson University Hospital, New Brunswick New Jersey, informing the Board that he is the new Director of Respiratory Care at Robert Wood Johnson University Hospital, **as informational.**

#### **V. LEGISLATION AND PROPOSED REGULATIONS/REAGENDIZED**

- a. The Board reviewed, N.J.A.C.13:44F-10.2, CE Proposed Regulation for determination of credits (DRAFT) with **Regulatory Analyst, Rachel Glasgow.**

**Partial credit will be awarded for program of more than an hour.**

**On a motion by Christopher Lange, seconded by James Brophy, the Board approved proposal as amended.**

- b. The Board reviewed, SENATE, No. 682 -Establishes process to bar certain health care providers from receiving reimbursement under PIP. **The Board took no position.**
- c. The Board reviewed, SENATE NO. 681 - Provides for issuance of certificate of rehabilitation to certain offenders with substance abuse disorders.

**The Board supports Senate No. 681, but has concerns as to what happens after a certificate is issued and an individual relapses after issuance of the certificate?**

#### **VI. PUBLIC COMMENTS**

- a. **Michael Jensen of US HomeMed, LLC.**, addressed the Board regarding his request.

## **VII. OTHER BUSINESS**

None

There being no other business to come before the Board in Public Session, on a motion by James Brophy, seconded by Janet Castronovo, the meeting was adjourned and the Board moved into Executive Session for the purpose of receiving counsel, to conduct one investigative inquiry and to review eight items of old business.

The Board reconvened in Public Session. The next scheduled meeting is April 1, 2014. There being no other business to come before the Board, on a motion by Christopher Lange, seconded by Janet Castronovo, the Board adjourned the meeting at 2:30 p.m.

*Respectfully submitted,*

Dorcas K. O'Neal  
Executive Director





